

REMARKS

This Amendment is responsive to the Office Action dated April 28, 2009. Claim 1 has been amended and new claims 11 and 12 have been added. Claims 1-8, 11, and 12 are pending. No new matter is introduced. The foregoing amendments are supported by the specification as filed at least at page 5, line 36, to page 6, line 12, page 10, lines 20-30, and Figures 1, 2, 4, and 8-13j. Applicants request reconsideration of the present application in view of the foregoing amendments and the following remarks.

Applicant's representative thanks the Examiner for taking the time to conduct a telephone conversation regarding the foregoing amendments and discussing the advantages over the inventions in the cited references. In particular, Applicant's representative distinguished the primary reference, U.S. Patent No. 4,450,970, to Shepherd, stating that in the present invention the lower panels provide axial support for the upper panels. Applicant's representative further added that the claims will be amended to elaborate on the features of the bent sections to clarify that upon assembly, a portion of a lower bent section of an upper panel nests in, and comes in contact with, a portion of an upper bent section of a lower panel. The Examiner acknowledged Shepherd does not teach such a configuration. The discussion that follows elaborates on the foregoing claim features, and their departure from, and advantages over, Shepherd.

Independent Claims

Independent Claim 1

Claim 1 is rejected as being obvious over U.S. Patent No. 4,450,970, to Shepherd. The Examiner recognizes that Shepherd does not disclose an engagement protrusion upwardly protruding from an upper end of a front panel body and a coupling recess forwardly opened above the engagement protrusion. The Examiner states, however, that these feature are obvious over a downwardly extending flange of channel 35 at the upper end of the Shepherd panel, and the channel being open below this flange. It is reasoned in the Office Action that the engagement protrusion direction and coupling recess orientation are obvious matters of design choice.

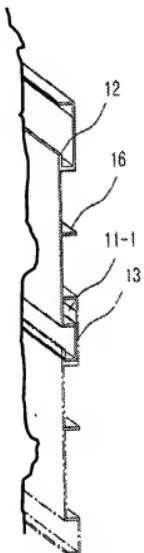
Applicant respectfully submits that features that are an obvious matter of design choice do not modify the operation of a device. For example, repositioning of a starting switch for a hydraulic press without modifying the operation thereof was found to be an obvious matter of design choice. MPEP § 2144.04.C. Claim 1 is amended to clarify the structure of the bent sections of claim 1, which make assembly of the claimed panels not only different, but much easier, faster, and amenable to using large panels for mounting to interior and exterior structures, as compared to the Shepherd assembly.

Claim 1, as amended, recites, “the coupling recess having a bottom flange extending rearward from the front panel body and a rear flange extending upward from a rear end of the bottom flange.” Claim 1 adds, “an engagement protrusion upwardly protruded from the upper end of the front panel body … the engagement protrusion, bottom flange, and rear flange forming a securing receptacle.” Amended claim 1 adds:

the lower bent section having a rear flange extending downward with respect to the lower end of the front panel body and a bottom flange extending forward from a lower end of the rear flange, the lower bent section of an upper panel of the plurality of prefabricated panels being insertable in the coupling recess of a lower panel of the plurality of prefabricated panels, the rear and bottom flanges of the lower bent section of the upper panel nesting in the securing receptacle of the lower panel, the bottom flange of the lower bent section of the upper panel being positioned contiguous the bottom flange of the coupling recess of the lower panel.

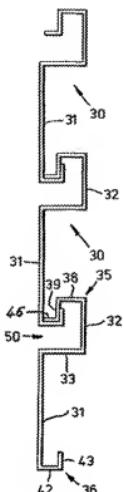
Therefore, in an assembly according to claim 1, rear and bottom flanges of a lower bent section of an upper panel nest in a securing receptacle of a lower panel formed by an upwardly protruding engagement protrusion, and the rear and bottom flanges of the coupling recess. According to this configuration, when the panels are assembled, the bottom flange of the lower bent section of the lower panel provides support for the upper panel and resists movement of the upper panel against gravity. Amendments to claim 1 are supported in the specification at least at page 5, line 36, to page 6, line 12, page 10, lines 20-30, and Figures 1, 2, 4, 8-13a, 13b, 13d-13f, and 13j. In particular, the specification discusses engagement of an upper panel and a lower panel upon inserting the lower bent section of the upper panel into the coupling recess of the lower panel, and lowering the lower bent section along the coupling recess until the lower end of the lower bent section comes into contact with the bottom of the coupling recess.

Specification, p. 10, lines 21-30. This configuration as shown in the illustrated embodiment of Figure 1 of the present application is duplicated below, in relevant part, for the Examiner's convenient reference.



One practical advantage of this configuration is that the panels can be preassembled, erected against an external structure, such as a wall or frames of a building, and then secured to the structure to prevent the assembly from tilting. This is because in the preassembled state, as shown above, the panels do not require external support against gravity to maintain their position. Since the panels provide axial support for each other, securing them to the wall primarily prevents lateral tilting of the panels.

In contrast, in the assembly in Shepherd, the panels cannot be preassembled before being secured to a structure particularly due to the direction of flange 39 and orientation of the recess in that invention. Figure 1 of Shepherd is duplicated below for reference.



Since the flange 39 of upper channel 35 is downwardly extending and the channel is open below this flange, the bottom flange 42 of an upper panel is required to be positioned under the flanges 39, 46 of the upper channel 35 of a lower panel. *See* Shepherd, Figures 1-5. In other words, the arrangement of channel formations in Shepherd requires the upper panel to bear the weight of the lower panel. Therefore, if the Shepherd panels were coupled together as shown above, and then erected, the upper panels will fall because the lower panels do not provide axial support for the upper panels.

This is why in Shepherd it is necessary to weld the rear surface of the panels to a structure in order to maintain the channels in Shepherd in surface-to-surface contact. Shepherd, column 4, lines 10-14, column 5, lines 20-24, and Figure 3. In fact, these welds are the only structures supporting the weight of all the panels in all directions. In an assembly according to claim 1, however, even after assembly, the lower panels can provide axial support for the upper panels while the fasteners resist lateral movement of the panels.

An additional advantage of an assembly having the features recited in amended claim 1 is that the panels can be coupled to each other from the front and expediently fastened to

an external structure from the bottom up by utilizing installed lower panels as supports for subsequently stacked upper panels as the latter are fastened. For example, the lowest panel can be fastened first. Next, the lower bent section of an upper panel can be inserted in the coupling recess of the lower panel from the front, and lowered until the bottom flange of the lower bent section of the upper panel is positioned contiguous the bottom flange of the coupling recess of the lower panel. Since the lower panel provides axial support for the upper panel against gravity, the lower panel stabilizes the upper panel and allows a user to use both hands to fasten the upper panel toward its upper end. Since the panels are assembled from the front and lowered in place, an assembly according to claim 1 minimizes the space requirement for assembly. This allows the panels to be as wide as the width of a room wall to which they are mounted, and to be installed to the wall on site, within the room.

In contrast, the Shepherd panels need to be spot welded one at a time, and upper channels of subsequent lower panels must slide from one side into lower channels of upper panels, respectively. Figures 1-5 of Shepherd demonstrate that the panels cannot be assembled from the front and lowered into place. Since the channel formations in Shepherd are such that a downwardly extending flange or channel at the top of a lower panel is received in a U-shaped channel at the lower end of an upper panel, the upper channel of a lower panel has to slide into engagement with a lower channel of an upper panel. Therefore, the panels of Shepherd have to be much smaller than the wall on which they are mounted to allow room for sliding the panels into each other from one side.

Furthermore, the Shepherd panels cannot be preassembled to each other and then brought into the room or moved toward the wall within the room, without being prefastened to one another. This is because as discussed above the upper panels will fall in response to gravity. Prefastening or clamping the panels to each other, however, defeats the point of a modular panel assembly desired to be assembled and mounted to a wall, on site.

Therefore, while the Shepherd panels maybe suitable for small displays, which is the stated goal of that invention, they cannot be used for covering an entire wall of a room without first being preassembled and fastened to each other using external fasteners. Even when preassembled and fastened to each other, it may not be possible to bring the preassembly into a

room because room openings are typically shorter than the wall height, and therefore, the fastened preassembly may not fit through the room opening.

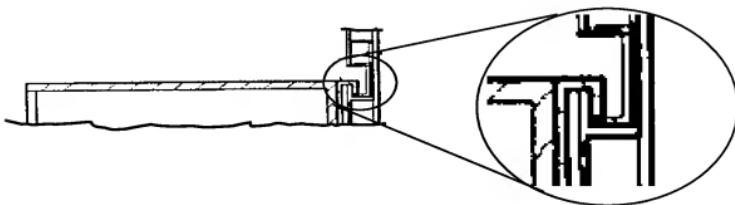
A panel assembly according to claim 1, therefore, is suitable for both small displays and entire internal or external wall installations. With respect to displays, since the lower panels provide support for the upper panels, only minimal additional fastening to a structure or wall can be used to prevent the panels from tilting. With respect to entire wall installations, the panels can be preassembled, erected, and fastened, or they can be built up from bottom up, and assembled by coupling upper panels to lower panels from the front. Therefore it is possible to remodel the entire inside and outside of an old building with a panel assembly according to claim 1, without requiring any destruction and rebuilding of the existing building walls.

Furthermore, as discussed in the present specification, a panel assembly according to claim 1 is suited for internal and external applications, such as for being installed to an outer surface of a weathered wall of an old building. *See Specification, p. 8, lines 13-15.* Since the lower bent section of the upper panel nests in the securing receptacle of the coupling recess of the lower panel, the upper panel lower bent section can cover the upper portion of the coupling recess, which can include a fastener securing the lower panel to the external wall, as shown in the illustrated embodiments of Figures 2 and 4 of the present specification. Therefore, the fastener will be protected against impact and/or weather elements.

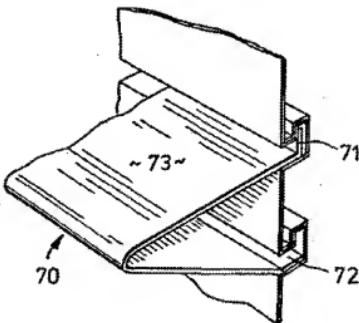
As demonstrated above, the configuration recited in claim 1 is not an obvious matter of design choice because it significantly improves assembly and function of the panels as compared to the configuration disclosed in Shepherd.

In addition, in a panel assembly according to claim 1, the engagement protrusion extends upward from the upper end of the front panel body and the upper bent section is rearwardly bent. Therefore, the engagement protrusion is easily accessible at the front of each panel to receive a support member for a display panel or other structure via a hook engagement as shown in Figures 10a and 10b of the present specification. The user can simply insert the hook attached to an external structure over the protrusion and lower it to secure the external structure to the engagement protrusion. A portion of Figure 10b of the present application is

duplicated below, along with an enlarged view of the engagement protrusion engaged with a hook of a cabinet, for reference.



As shown in the enlarged view above, the engagement protrusion resists the weight of the cabinet axially and laterally. The upper end of the engagement protrusion is positioned under the hook to provide axial support and the inner axial surface thereof is contiguous a surface of the hook to provide lateral support against a moment induced by the weight of the cabinet. In contrast, the channel formations of Shepherd provide only lateral support only against the bending moment induced by the external structure. Figure 11 of Shepherd is duplicated below.



As shown in the figure above from Shepherd, the flange 71 engages the upper channel of the lower Shepherd panel only along an axial surface, thereby only resisting a moment. Therefore, in Shepherd, it is required to also incorporate a second flange 72 that is

inserted into a second lower recess of the Shepherd panel assembly, to assist in resisting the induced moment. *See* Shepherd, column 6, lines 25-31. If this second flange 72 is not incorporated, only a small upper portion of flange 71, which is in contact with the upper channel, would be subject to the entire moment induced by shelf 73 and loads supported on the shelf. This configuration significantly limits the amount of load that can be supported on the shelf. Therefore, the engagement protrusion recited in claim 1 supports external structures by reacting the load associated therewith both axially and against a bending moment, eliminating the need to use two recesses on the panels and two flanges on the external structure.

In the Office Action, it is stated that “the flange of Shepherd serves the same purpose as the claimed protrusion, namely to retain accessories attached thereto.” Office Action, p. 8. Applicant respectfully submits that this is an equivalency argument. The MPEP states that “It is *prima facie* obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art.” MPEP § 2144.06.I. However, the MPEP follows by stating, “In order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant’s disclosure or the mere fact that the components at issue are functional or mechanical equivalents.” MPEP § 2144.06.II (emphasis added).

Shepherd fails to recognize the claimed configuration as being equivalent to its disclosed channel formations. Furthermore, as demonstrated above, claim 1 is amended to clarify that the engagement protrusion of claim 1 cooperates with the coupling recess to form a securing receptacle that supports the upper panel, and also provides both axial and bending support against the load of an external structure. Therefore, the structural differences between the features recited in claim 1 and those disclosed by Shepherd provide for a different operation and significant practical advantages over Shepherd.

Accordingly, claim 1, and claims 2-8 and 11, which are dependent from claim 1, are allowable. Dependent claims 2-8 are rejected over Shepherd and other secondary references,

none of which fulfill the deficiencies in Shepherd in rendering claim 1 obvious. Accordingly, claims 2-10 are allowable at least for being dependent from claim 1.

Independent Claim 12

New independent claim 12 finds support in the specification at least at page 5, line 36, to page 6, line 12, page 10, lines 20-30, and Figures 1, 2, 4, and 8-13j. Claim 12 is directed to a plurality of panels each having upper and lower bent sections formed toward upper and lower ends of a front panel body, respectively, and recites, “the upper bent section extending rearward with respect to the front panel body and defining a coupling recess having a lower end spaced from, and positioned below, the upper end of the front panel body.” Claim 12 adds:

the lower bent section extending rearward with respect to the front panel body and having a lower end, the lower bent section of an upper panel of the plurality of prefabricated panels being insertable in the coupling recess of a lower panel of the plurality of prefabricated panels, the lower end of the lower bent section of the upper panel contacting the lower end of the coupling recess of the lower panel, the lower end of the coupling recess of the lower panel axially supporting the upper panel.

As discussed in detail above, the lower panels in Shepherd do not axially support the upper panels, and therefore, the Shepherd panels cannot be preassembled and erected to be installed to an external structure without being prefastened to each other. Furthermore, the Shepherd panels cannot be mounted to an entire wall of a room because they need sufficient space to slide into one another. In contrast, a panel assembly according to claim 12 can be prefabricated and then moved, while also facilitating on site mounting of the panels to the entirety of all walls within a room, or to external walls of a building. In this manner, it is possible to entirely remodel an inside or outside of a building while providing for supporting external display structures, which makes the present invention particularly suitable for new retail stores in old buildings.

Accordingly, claim 12 is also allowable.

Dependent Claims

All of the dependent claims are rejected over Shepherd and at least one secondary reference. None of the secondary references cited fulfill the deficiencies in Shepherd in rendering claim 1 obvious. Accordingly, the dependent claims are allowable at least for being dependent from claim 1.

Conclusion

Applicant respectfully submits that all of the claims remaining in the application are now allowable. As discussed during the telephone conversation with the Examiner, the Examiner is encouraged to contact the undersigned with respect to any questions regarding the foregoing amendments and/or comments. Favorable consideration and a Notice of Allowance are earnestly solicited.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC

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/Nima A. Seyedali/  
Nima A. Seyedali  
Registration No. 61,293

NAS:jjh

701 Fifth Avenue, Suite 5400  
Seattle, Washington 98104  
Phone: (206) 622-4900  
Fax: (206) 682-6031

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